

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NEW YORK HELICOPTER CHARTER, INC.  
and MICHAEL ROTH individually,

Plaintiffs,

**NOTICE OF MOTION**

-against-

Case No. 07-Civ.-4069 (MGC)

AIR PEGASUS HELIPORT, INC., and  
HUDSON RIVER PARK TRUST,

Defendants.  
-----X

PLEASE TAKE NOTICE that upon the Third Amended Complaint in this action dated April 25, 2008, the Memorandum of Law in support of this Motion, dated July 17, 2008, and upon all of the pleadings and proceedings heretofore had herein, the undersigned will move this Court, at the Courthouse located at 500 Pearl Street, New York, New York, on **Thursday, August 14, 2008**, at 9:30 in the forenoon of that day or as soon thereafter as counsel can be heard, for dismissal of each of the Causes of Action in the Amended Complaint alleged against Defendant HUDSON RIVER PARK TRUST, pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) for lack of jurisdiction over the subject matter and failure to state a claim upon which relief may be granted and for such other and further relief as to this Court may seem just and proper.

Dated: New York, New York  
July 17, 2008

Konner Teitelbaum & Gallagher

s/ 

By: Michael A. Gould, Esq.  
Attorneys for Defendant

HUDSON RIVER PARK TRUST  
462 Seventh Avenue, 12<sup>th</sup> Floor  
New York, New York 10018  
212-697-8500

TO: Hantman & Associates  
Attorneys for Plaintiff  
1414 Avenue of the Americas  
Suite 406  
New York, New York 10019  
212-684-3933

Leon Friedman, Esq.  
Attorney for Defendant AIR PEGASUS HELIPORT, INC.  
148 East 78<sup>th</sup> Street  
New York, New York 10021  
212-737-0400

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**DECLARATION OF  
MICHAEL A. GOULD IN  
SUPPORT OF MOTION**

Case No. 07-Civ.-4069 (MGC)

MICHAEL A. GOULD, an attorney duly admitted to practice in the Courts of the State of New York, declares under the penalties of perjury as follows:

1. I am associated with Konner Teitelbaum & Gallagher, counsel for Defendant HUDSON RIVER PARK TRUST, one of the defendants in this action. I make this Declaration in support of the Motion to Dismiss; I am fully familiar with the facts recited herein.
2. Attached as Exhibit "A" is a copy of the Plaintiffs' Amended Complaint, with exhibits.
3. Attached as Exhibit "B" is a copy of the Hudson River Park Act.
4. Attached as Exhibit "C" is a copy of the settlement agreement dated April 28, 2005, in *New York Helicopter Charter, Inc. vs. Air Pegasus Heliport, Liberty Helicopters, Inc., and Hudson River Park Trust*, New York County Index No. 603773-2004.
5. Attached as Exhibit "D" is a copy of the complaint in *New York Helicopter*

*Charter, Inc. vs. Air Pegasus Heliport, Inc., Air Pegasus New York, Inc. & Hudson River Park Trust*, New York County Index No. 601327-2006.

6. Attached as Exhibit "E" is the transcript of the March 6, 2008 oral argument of the Defendants' motions to dismiss the Second Amended Complaint in this action.

7. Attached as Exhibit "F" is a letter dated December 15, 2006 from Defendant HUDSON RIVER PARK TRUST to Defendant AIR PEGASUS HELIPORT, INC.

Dated: New York, New York  
July 17, 2008



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Michael A. Gould

